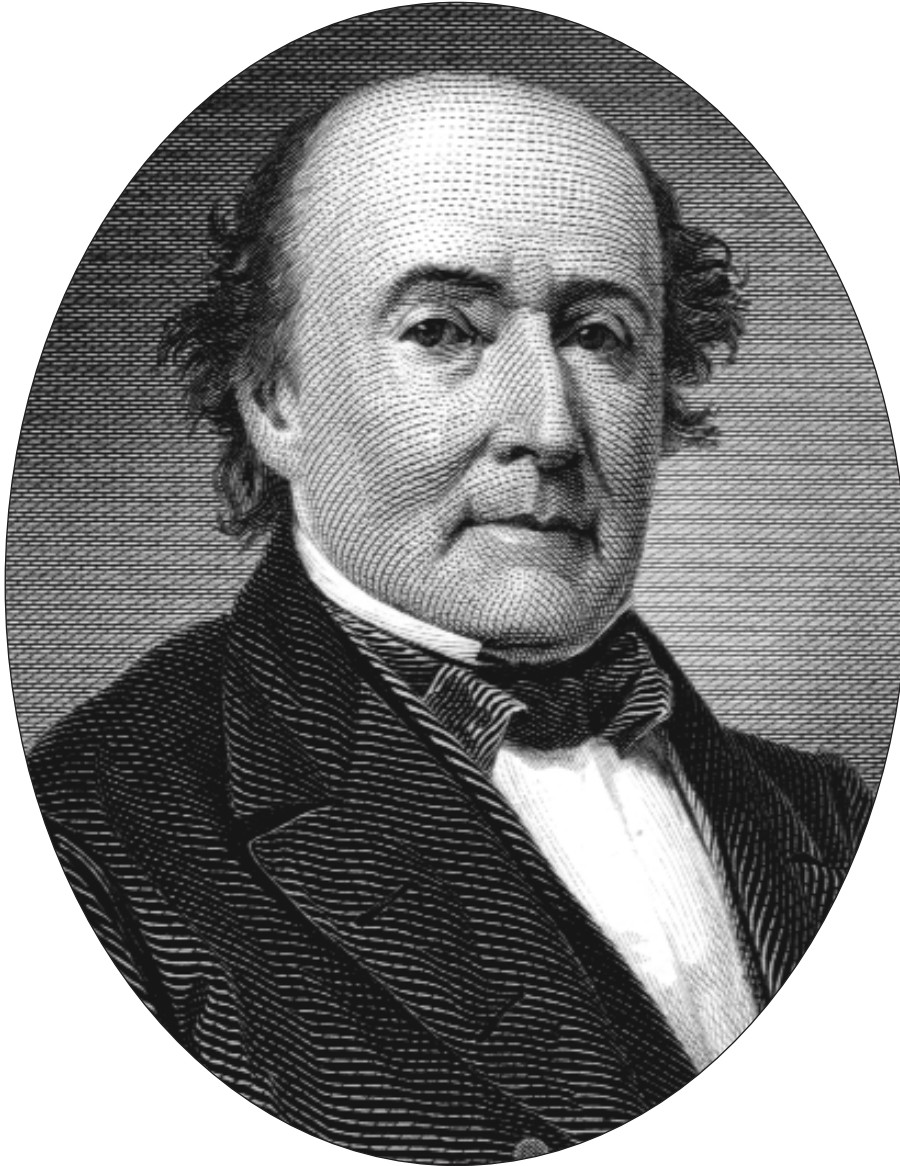


# PLEDGES AND PRINCIPLES

by Pearl T. Ponce

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*Robert Walker*

**T**he worst of the crisis in Kansas Territory seemed to have passed in March 1857 when James Buchanan was inaugurated as U.S. president.

After several unwise choices, President Franklin Pierce's last selection as Kansas governor, John Geary, had calmed the fractious territory, and although the passage of the 1854 Kansas-Nebraska Act had hurt the Democratic Party, it had retained the presidency. As such, the transition from Pierce to Buchanan was not perceived among Democrats as a sea change as much as a substitution for an experienced statesman better equipped to meet the challenges that had shaken the Pierce administration. Indeed, although historians traditionally have considered Buchanan's administration a failure, headed by a weak leader sub-

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# Buchanan, Walker, and Kansas in 1857

ject to manipulation by his cabinet, others have found evidence of decisiveness and even leadership in Buchanan's efforts to define suffrage requirements for the territory.<sup>1</sup> However, the problems that beset Buchanan as he tried to manage Kansas affairs stemmed less from issues of leadership style or efficacy than from the breakdown in his relationship with his new governor—a relationship that floundered due to different and incompatible definitions of the will of the people.

In his inaugural address, Buchanan reminded Americans that “when the people proclaimed their will, the tempest at once subsided, and all was calm,” and he hoped Kansas passions could be calmed just as expeditiously. Although the government was obliged to ensure territorial residents’ freedom to vote without intimidation, Buchanan asserted that beyond this, they ought “to decide their own destiny for themselves, subject only to the Constitution of the United States.”<sup>2</sup> As such, Buchanan began his administration convinced the Kansas question had assumed greater importance in the public mind than it deserved, especially as “Kansas might enter the Union with a free constitution today, and once admitted,” he argued, “no human power known to the Constitution



James Buchanan

1. In particular, see David M. Potter, *The Impending Crisis, 1848–1861*, [ed. and comp. Don E. Fehrenbacher] (New York: Harper and Row, Publishers, 1976); David E. Meerse, “Presidential Leadership, Suffrage Qualifications, and Kansas: 1857,” *Civil War History* 24 (December 1978): 293–313; Kenneth M. Stampp, *America in 1857: A Nation on the Brink* (New York: Oxford University Press, 1990). Also of note is Nicole Etcheson, *Bleeding Kansas: Contested Liberty in the Civil War Era* (Lawrence: University of Kansas Press, 2004).

2. James Buchanan, *Inaugural Address of the President of the United States on the Fourth of March, 1857* (Washington, D.C.: A. O. P. Nicholson, 1857), 3–4.

could prevent her from establishing slavery to-morrow."<sup>3</sup> Although Buchanan expected the Lecompton convention to submit the constitution to a general vote, as Minnesota had done recently, his main concern was protecting the franchise in the territory because "the fair expression of the popular will must not be interrupted by fraud or violence."<sup>4</sup> Ultimately, this belief in the mutability of constitutions, combined with Buchanan's fluid definition of what constituted the "will of the people," led to his disastrous support for the Lecompton Constitution, which would define his Kansas policy.

With the territorial government already established when he took office, Buchanan believed his options were severely limited. The first territorial elections were imperfect, but Buchanan believed Congress's rejection of the Topeka Constitution settled any remaining questions of legitimacy.<sup>5</sup> In addition, the Supreme Court's Dred Scott decision, issued soon after Buchanan's inauguration but referenced in his address, resolved any lingering doubts. This decision, "so full and explicit," established the rights of slave owners to convey their property into any territory, even if the territorial legislature outlawed slavery, until that territory entered the Union and finalized the question in its constitution.<sup>6</sup> For Buchanan, these legislative and judicial decisions provided the key to interpreting the turmoil in Kansas. Given that both Congress and the judiciary had dealt setbacks to antislavery proponents, Buchanan believed the Free State Party ought to reject its extralegal organization and participate in the territory's upcoming constitutional convention, set for September in Lecompton.<sup>7</sup>

Overseeing Kansas affairs would be a new executive team. Buchanan's nomination of Robert Walker as governor came as a surprise because although Walker was a well-known, well-regarded Democrat, he had opined during the presidential campaign that Kansas was "a graveyard for governors" and would never be a slave state.<sup>8</sup> Insisting the Kansas post was "the most important position in the country," however, Buchanan pressured Walker to serve his country on the frontier instead of as secretary of state as many had expected. Walker favored emancipation, had manumitted his own slaves in 1832, and denounced nullification and secession as treason; yet, originally from Pennsylvania, he had represented Mississippi in the U.S. Senate from 1836 to 1845.<sup>9</sup> As Walker later recalled, he "was a northern man by birth and a southern man by long residence and adoption, and perhaps enjoyed the confidence of the whole nation as to my impartiality upon this question."<sup>10</sup> Coupled with his unexpected acquiescence, Walker's national standing and reputation fomented rumors that he was clothed with an "almost unlimited" authority.<sup>11</sup> Indeed, he accepted only after Buchanan pledged his unqualified support. As Walker wrote the president, "I understand that you and all your cabinet cordially concur in the opinion expressed by me, that the actual bona fide residents of the territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their state constitution, to decide for themselves what shall be their social institutions."<sup>12</sup>

8. Homer E. Socolofsky, *Kansas Governors* (Lawrence: University Press of Kansas, 1990), 59.

9. "Documentary History of Kansas," *Kansas Historical Collections*, 1889–1896 5 (1896): 158.

10. *Select Committee on Alleged Corruptions in Government: The Covode Investigation*, "Lecompton Constitution, Etc.," 36th Cong., 1st sess., 1860, H. Rept. 648, serial 1071, 105.

11. Schulyer Colfax to Charles Robinson, April 8, 1857, Charles Robinson Collection, Library and Archives Division, Kansas State Historical Society. In 1860 S. M. Johnson, who was named editor of the *Washington Union* in January 1857, testified that Buchanan had agreed to "support and carry out certain principles" and that Walker "should be entirely unrestricted and unencumbered by any further instructions from the government." See *Select Committee on Alleged Corruptions in Government*, 154.

12. Socolofsky, *Kansas Governors*, 59; Robert J. Walker to James Buchanan, March 26, 1857, "Governor Walker's Administration," 290. According to Walker's recollection, he had explicitly stated that any constitution had to be submitted to the people and the president had only modified one sentence of his inaugural. See *Select Committee on Alleged Corruptions in Government*, 105–7. Senator Stephen Douglas had also approved it when Walker stopped over in Chicago. See James Shenton, *Robert John Walker* (New York: Columbia University Press, 1961), 152.

3. James Buchanan, "Speech at Wheatland," November 6, 1856, in *The Works of James Buchanan, Comprising his Speeches, State Papers, and Private Correspondence*, comp. and ed. John Bassett Moore (Philadelphia: J. B. Lippincott Co., 1910), 10: 97–98.

4. Lewis Cass to Robert J. Walker, March 30, 1857, paraphrasing Buchanan's directives, "Governor Walker's Administration," *Kansas Historical Collections*, 1889–1896 5 (1896): 323.

5. James Buchanan, *Mr. Buchanan's Administration on the Eve of the Rebellion* (New York: D. Appleton and Co., 1866), 29.

6. *Ibid.*, 50. As a Southern majority declaring the Missouri Compromise unconstitutional would seem too political, Justice Catron of Tennessee asked Buchanan to influence Justice Grier of Pennsylvania, to "drop Grier a line, saying how necessary it is . . . to settle agitation by an affirmative decision of the Supreme Court, the one way or the other." See Stamp, *America in 1857*, 90–93.

7. Buchanan, *Mr. Buchanan's Administration on the Eve of the Rebellion*, 30.

After his appointment, Walker spoke extensively on the importance of complete participation in territorial elections, an emphasis duly noted by free-state proponents. As Indiana congressman Schulyer Colfax explained to free-state leader Charles Robinson, Walker “expects you to decline participating in the election in spite of his appeals, and he will return with the Border Ruffian Constitution, declaring that he was there expecting that Kansas would be free, but that her Free State people would not vote, and consequently a Slave State Constitution was inevitable.” Moreover, Supreme Court judge John McLean and others “whose fidelity to the cause is unquestionable” now insisted that the free-state faction should “have attempted a righting of your wrongs by voting.”<sup>13</sup> With the passage of time came the burgeoning of criticism that any organization staking a moral claim to greater democratic forms had to work through the political system, however flawed the territorial mechanisms. Yet the free-state faction continued to isolate itself from elections until it could achieve a critical mass. “Our policy is now a ‘masterly inactivity.’ [We will] wait for those who are coming,” one partisan wrote. “The advocates of voting want to go to the polls and expect they would have to vindicate their rights there with blood. But our policy is peace. We wish to do nothing to provoke collision, at least till we are strong enough to awe and look down all opposition.”<sup>14</sup>

As Walker stumped for full participation in Washington, D.C., that spring, the new territorial secretary, Frederick Stanton, oversaw the delegate census.<sup>15</sup> On May 20

**INAUGURAL ADDRESS**  
OF  
**HON. ROBERT J. WALKER,**  
**GOVERNOR OF KANSAS TERRITORY:**  
**Delivered in Lecompton, May 2, 1857.**

FELLOW CITIZENS OF KANSAS:—

At the earnest request of the President of the United States, I have accepted the position of Governor of the Territory of Kansas. The President, with the cordial concurrence of all his cabinet, expressed

ated and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully

*As the new governor of Kansas Territory, Robert Walker advocated that the voice of the people be heard at the polls, and he sought complete participation in territorial elections.*

Stanton announced the apportionment for the upcoming delegate election: with only nine thousand of an estimated twenty thousand eligible voters registering, almost two-thirds of the sixty delegates would come from Missouri border counties.<sup>16</sup> Charges that the districts had been “gerrymandered” to ensure maximum proslavery votes, thus rendering free-state participation irrelevant, were quickly levied. However, few if any eligible voters lived in several unregistered counties, resulting in countercharges that the free-state faction, which was unlikely to participate in any event, merely wished to create the appearance of foul play. Five days after Stanton announced the results, the free-state faction requested a new census, apportionment, and equal numbers of election judges on each side of the issue, but Stanton rejected these requests.<sup>17</sup>

13. Schulyer Colfax to Charles Robinson, April 8, 1857.

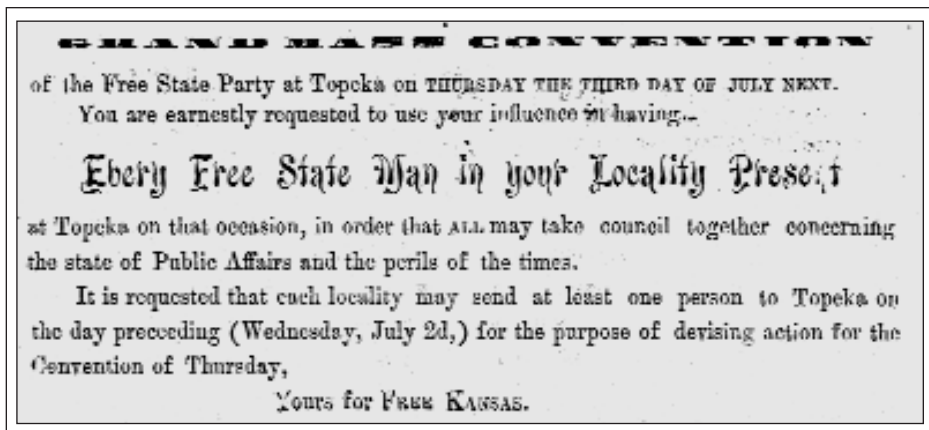
14. John Everett to Robert Everett Sr., April 2, 1857, “Letters of John and Sarah Everett,” *Kansas Historical Quarterly* 8 (May 1939): 169.

15. Stanton had represented Tennessee in Congress from 1845 to 1855 and, like Walker, initially had rejected the position but eventually succumbed to administrative pressure as Walker wanted a man he knew and trusted to accompany him. See Lewis Cass to Frederick Stanton, March 31, 1857, “Governor Walker’s Administration,” 323, 159; “Documentary History of Kansas,” 159; J. H. St. Matthew, “Walker’s Administration in Kansas,” *Overland Monthly* 5 (December 1870): 544. Stanton’s national prominence both reflected Kansas’s importance to the administration and rendered his acceptance suspicious. The *New York Tribune*, for instance, reported that Stanton accepted only after being promised government support for a Senate seat from the new state. See *New York Tribune*, April 8, 1857.

16. “Message of the Acting Governor,” December 8, 1857, “Governor Walker’s Administration,” 415; Robert W. Johannsen, “The Lecompton Constitutional Convention,” *Kansas Historical Quarterly* 23 (Autumn 1957): 227–28; William Frank Zornow, *Kansas: A History of the Jayhawk State* (Norman: University of Oklahoma Press, 1957), 76; Philip Shriver Klein, *President James Buchanan* (University Park: Pennsylvania State University Press, 1962), 296; John Hickman, *Popular Sovereignty—The Will of the Majority against the Rule of a Minority: Speech of Hon. J. Hickman, of Pennsylvania, in the House of Representatives, January 28, 1858* (Washington, D.C.: Congressional Globe Office, 1858), 5.

17. D. W. Wilder, *The Annals of Kansas* (1886; reprint, New York: Arno Press, 1975), 165–66.





One of Walker's primary concerns was persuading the Free State Party to abandon its extralegal organization. This 1857 broadside calls for a grand mass convention of the Free State Party to meet in Topeka on July 3.

Once Walker arrived in the territory, he neither acknowledged the dispute nor adjusted his strategy. Instead, his inaugural address emphasized a fresh start for the territory. Although the Lecompton process already was under way, Walker claimed President Buchanan and Congress would accept only a constitution fully supported by the populace. Unless all residents voted in a "fairly and justly conducted" election, "the Constitution will be, and ought to be, rejected by Congress." While reassuring free-state men of their right to contribute to a state constitution, Walker reminded territorial residents that they were subject to all laws and could not selectively choose among them. With or without the Free State Party, the territory was moving toward statehood, for as Walker noted, government had a duty to extend "the right of suffrage; but it cannot compel the performance of that duty." As such, even those residents opting out of the electoral process were bound equally by the certified will of the people. Finally, Walker asked residents to place territorial experiences into the greater context of democracy. "What is Kansas with or without slavery," Walker asked, "if she should destroy the rights and Union of the States?" The issue was moot, the new governor argued, for climate necessarily closed the territory to the institution. Walker believed antislavery partisans foolishly imperiled the Union for slaves for whom they had little genuine empathy and whose labor would not thrive in the territory's climate.<sup>18</sup>

18. "Governor Walker's Inaugural Address," May 27, 1857, "Governor Walker's Administration," 328–41.

In Washington the administration purportedly was surprised by Walker's explicit promises. In private correspondence, Secretary of the Treasury Howell Cobb claimed to be unaware of these pledges until the press revealed them, and he assumed Walker made them to satisfy the free-state faction. Cobb reported that Buchanan had not wanted any administration official to "use his position to affect the decision of the slavery question, one way or the other. He was indifferent to that question, so it was fairly and honestly made by the people of Kansas, and this was the position of the cabinet."<sup>19</sup> Although Walker

merely was assuring the people the administration supported a fair vote, his emphasis on the improbability that slavery could be implanted in Kansas seemed to indicate the administration favored a free state. Buchanan most likely favored a slave state because he believed preservation of the Union required a sectional balance. Moreover, Buchanan genuinely believed the proslavery party was in ascendance in the territory but was being outmaneuvered by a small, abolitionist minority whose stridency masked their true numbers. Buchanan's inability to recognize the rise of antislavery sentiment in the North was exacerbated by his absence from the country in 1854 and 1855, two years that saw considerable growth for the antislavery movement.

19. Howell Cobb to Alexander Stephens, June 17, 18, in Ulrich B. Phillips, ed., *American Historical Association, Annual Report, 1911, Vol. 2: The Correspondence of Robert Toombs, Alexander H. Stephens, and Howell Cobb* (Washington, D.C.: 1913), 402. Cobb believed Kansas's admission with a regular constitution would ensure calm; afterward, the territory could decide the slavery issue. In a September 19, 1857, letter to A. H. Stephens, Cobb claimed Buchanan had not seen Walker's inaugural (p. 423). According to Walker, Buchanan had approved an incomplete version of his inaugural but one that included the pivotal section on submission. Most historians accept that Buchanan gave Walker his unconditional support, but while this is most certainly true, in the context of the entire inaugural, it is possible Buchanan and Walker differed in their understanding of what submission meant. See *Select Committee on Alleged Corruptions in Government*, 106; Potter, *The Impending Crisis*, 298–99; Allan Nevins, *The Emergence of Lincoln* (New York: Charles Scribner's Sons, 1950), 1: 144–47; Stamp, *America in 1857*, 158–60.

Walker's immediate concern was persuading the Free State Party to abandon its extralegal organization and cooperate with the territorial government. To that end, Walker attended a mass meeting in Topeka on June 6 and stressed Buchanan's support for his plan to submit the constitution to a vote of the people. In this speech, Walker pledged to join the free-state faction in "lawful opposition" unless the convention submitted the constitution to a vote. Moreover, Walker assured his audience that "one much higher than I, the chief magistrate of the union, will join you in opposition" as well.<sup>20</sup> Despite Walker's encouragement, free-state activists continued their "masterly inactivity" while awaiting final victory through immigration.

When the delegate election results were announced, merely 2,071 of the 9,251 registered voters participated. As a result, only one-tenth of the eligible population had selected the delegates who would write the territory's constitution, leading the free-state faction to believe their strategy had been vindicated by the result of the unfair apportionment.<sup>21</sup> In an editorial entitled "The Past—A Plan for the Future," the *Herald of Freedom* advocated rejecting the Lecompton Constitution on principle, for "it matters not what the character of that Constitution may be." Furthermore, the faction intended to "take possession of it, and elect every officer, executive, legislative, and judicial, under it; and although we cannot produce an abortion, we can strangle it at its birth, by getting possession of the monster when it begins to give evidence of life."<sup>22</sup>

Throughout the summer Walker continued to press the free-state faction to abandon its illegal path in favor of full territorial participation. Although delegate selection was complete, on July 11, when the free-state legislature convened at Topeka, the governor implored the free-state men to vote once the constitution was presented to the territory. Walker was confident the Lecompton Constitution would allow slavery but prohibit

further importation, an outcome that could unite free-state Democrats and proslavery advocates. Walker was persuasive for in late August the free-state faction agreed to participate in fall elections and to rely "upon the faithful fulfillment of the pledge of Governor Walker."<sup>23</sup>

At the same time, Southern discontent with Walker continued to simmer precisely because of his outreach to the free-state faction. The *Charleston Mercury*, for instance, condemned Walker's plans to send the constitution to the people as a "violation of the promised neutrality. . . . The real object and end is under the guise of fair words to the south to make a free state of Kansas." Similarly, the *Richmond South* insisted that a popular vote would "inflare and prolong the controversy, and would ultimately throw Kansas into the arms of the abolitionists."<sup>24</sup> Of course, neither newspaper considered that Kansas might very well already be in the hands of antislavery men. Even as Southern criticism was becoming more strident, however, it was diversifying beyond the usual malcontents: Georgia and Mississippi Democrats issued condemnations of Walker that summer, and even the governor of Florida used his inaugural speech to criticize Walker.<sup>25</sup> The tenor of the criticism prompted Buchanan to reassure Walker that such actions would "be speedily forgotten," and even Cobb conceded that Walker "had been too harshly judged" in these two states.<sup>26</sup>

Writing to Walker in mid-1857, Illinois senator Stephen Douglas also counseled Walker about this criticism. "They [the South] were in part dissatisfied with the nation's administration, and seized upon the Kansas question as a pretext, and made you the scape goat." Douglas believed free-state participation was irrelevant to the Democrats' success for even "if they do vote, I still have faith that the law and order party will be able to out vote them [the abolitionists] and adopt the constitution. It is all important

20. "Address of Governor Walker at Topeka," June 6, 1857, "Governor Walker's Administration," 293.

21. Wilder, *Annals of Kansas*, 169; Johannsen, "Lecompton Constitutional Convention," 227–28; see also Stamp, *America in 1857*, 167–68.

22. *Herald of Freedom*, July 4, 1857, quotation in George W. Brown, *Reminiscences of Gov. R. J. Walker* (1881, 1902; reprint, Freeport, N.Y.: Books for Libraries Press, 1972), 48–50.

23. "Governor Walker's Administration," 341–48, 358–60; Charles Robinson, *The Kansas Conflict* (1898; reprint, Freeport, N.Y.: Books for Libraries Press, 1972), 355; quotation in Wilder, *Annals of Kansas*, 176; see also Stamp, *America in 1857*, 169–74.

24. John H. Gihon, *Geary and Kansas. Governor Geary's Administration in Kansas* (1857; reprint, Freeport, N.Y.: Books for Libraries Press, 1971), 307.

25. See Shenton, *Robert John Walker*, 165–66.

26. Buchanan to Robert J. Walker, July 12, 1857, *ibid.*, 255, n. 11; Howell Cobb to Walker, July 27, 1857, *ibid.*

that the convention shall make such a constitution as the people will ratify and then terminate the controversy."<sup>27</sup> This analysis, common among Democrats who believed that all free-state men were abolitionists, was a serious underestimation of free-state strength in the territory.

Walker blamed Southern extremists for causing free-state Democrats to abandon their conservative position. Walker believed he had gained this faction's support, but increased Southern agitation had forced a realignment. "This policy was making great and successful progress when the violent attacks made upon it and upon me by southern extremists reached the territory," Walker wrote Lewis Cass.

But since the proceedings of those extremists have become known here, some of these free-state democrats have receded from this conservative position . . . and there is most serious apprehension that a considerable portion of them will join the republicans, not, perhaps, in their revolutionary proceedings, but in insisting on a constitution similar in all respects to that of the free states generally. A perfect union of free-state democrats with the republicans on this question would constitute an admitted and overwhelming majority of the people of the territory, and, if effected, would produce the most deplorable results.<sup>28</sup>

Walker worried that free-state Democrats might be driven from the party. To mitigate this, he wanted to respond to the "unmerited attacks upon me and my policy" and assured Cass that he would avoid embroiling the administration in this quarrel. However, Walker's submission policy was controversial to both sides as each faction was suspicious about his rationale—the South believed the governor intended to allow "abolition vagrants and interlopers to control the result," while local free-state advocates believed it would allow Missourians to do so.<sup>29</sup>

27. Stephen A. Douglas to Robert J. Walker, July 21, 1857, Stephen A. Douglas, Miscellaneous Collection, Library and Archives Division, Kansas State Historical Society.

28. Robert J. Walker to Lewis Cass, July 20, 1857, "Governor Walker's Administration," 359. For more on Walker's perception of how Southerners affected local views, see Walker to Cass, July 27, 1857, *ibid.*, 377–78.

29. Robert J. Walker to Lewis Cass, July 20, 1857, *ibid.*, 359–60.

The governor believed free-state Democrats were prevalent among the territory's parties, followed by Republicans, proslavery Democrats, and a small number of proslavery Know-Nothings. Walker was confident his inaugural's "climate doctrine" had restrained the Free State Party and once again insisted to the president that without the pledge of submission, Kansas would be consumed by civil war.<sup>30</sup> Buchanan's reply reassured Walker that the president would support the governor in his conviction that residents ratify the constitution. More important, Buchanan declared submission a matter of principle.

On the question of submitting the constitution to the *bona fide* resident settlers of Kansas, I am willing to stand or fall. In sustaining such a principle we cannot fall. It is the principle of the Kansas–Nebraska bill, the principle of popular sovereignty, and the principle at the foundation of all popular government. The more it is discussed the stronger it will become. Should the convention of Kansas adopt this principle, all will be settled harmoniously; and, with the blessing of Providence, you will return triumphantly from your arduous, important and responsible mission.<sup>31</sup>

Buchanan was as optimistic as Douglas about the Lecompton Constitution's chances for success. However, when proven wrong by events, Buchanan emphasized the qualifier in his statement, not the pledge. Buchanan began to stress that his promise to stand or fall on the issue only was relevant if the convention itself chose to submit it; even if they did not make that choice, the constitution retained its validity.

The Lecompton Constitutional Convention began its work in September but soon recessed to await the results of the October elections, which would include participation by both factions for the first time since

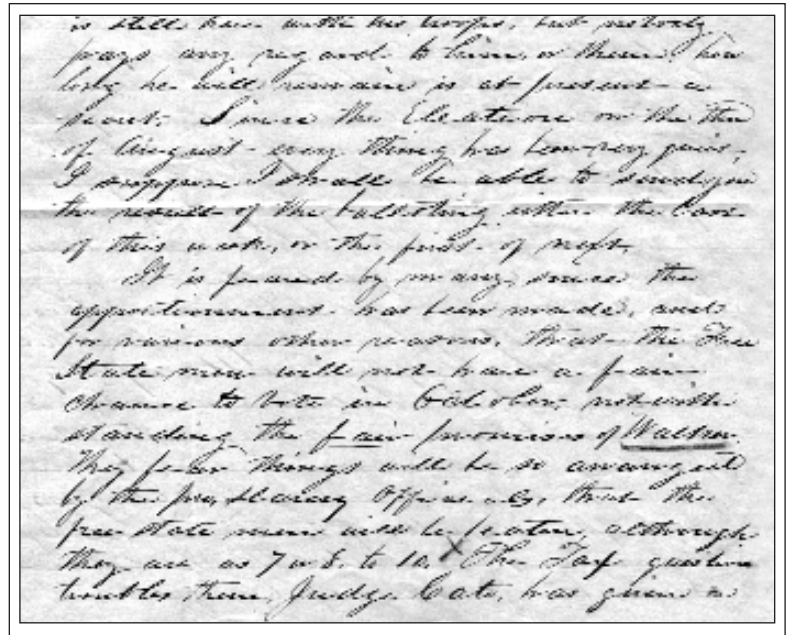
30. *Select Committee on Alleged Corruptions in Government*, 115–19. Not all listeners were as enamored of Walker's climate doctrine. On June 11, 1857, Charles Robinson, in his "Message at Topeka," stated: "There is indeed an 'isothermal line' . . . but there is unhappily no 'law of the thermometer' to prevent infatuated slavery propagandists from attempting to establish the institution, where wise policy says it should never be." See *New York Tribune*, June 22, 1857.

31. William Frederick Worner, "Letters of James Buchanan," in *Papers Read Before the Lancaster County Historical Society* 36 (1932): 313–14.

1855. Although no reason was issued explicitly for the break, it was widely believed that the elections would determine how the convention handled the question of submission.<sup>32</sup> Nonetheless, the decision to recess was odd—unless the delegates were sensitive to charges of illegitimacy, there was no persuasive reason to delay deliberations. Because the strongest complaint about the Lecompton Convention at this time was that it was unrepresentative but not illegitimate, this decision to recess would prove a most ineffectual strategy.

Before the election Walker asked the administration whether payment of a territorial tax was necessary to vote and, more generally, to advise on voter qualifications.<sup>33</sup> Cass responded that payment of the poll tax was not required but cautioned Walker that he could not rule on disputed elections as the members of the legislature had jurisdiction over their own membership. Instead, Walker's duty was "to see that the laws of the territory are faithfully executed, to take care that the elections shall be free and fair." Walker was buoyed, however, by Cass's admission that "the Territory of Kansas is in a peculiar condition" and that, as governor, his views were "entitled to great weight."<sup>34</sup>

Early electoral returns promised the proslavery party would retain some strength, but there an anomaly was apparent: while the free-state congressional delegate won his seat by more than four thousand votes, the proslavery party retained control of the territorial legislature.<sup>35</sup> Fraudulent returns, far in excess of census counts, were submitted by Oxford and McGee Counties and so rejected by Walker. Although acting against strict orders not to intervene, Walker was committed to a fair election and likely believed Cass had provided a loophole because, unlike previous elections, this fraud did not derive from illegal voters but from illegal returns. Walker reported to Cass that "we have never proposed to go behind genuine, legal and valid returns, to purge the polls, or judge of the quali-



In an August 11, 1857, letter to George L. Stearns, president of the Massachusetts State Kansas Committee, Thomas J. Marsh expressed the fears of many free-state men that they would not have a "fair chance to vote in October, notwithstanding the fair promises of Walker."

fications of voters, but that we have rejected the papers therein referred to, because they are not 'returns' in the language of the law, and because they are spurious and fictitious."<sup>36</sup>

Walker's decision was pivotal because the composition of the legislature hinged on the disputed returns: if included, the legislature would remain proslavery; if disqualified, the free-state men would be victorious. The inclusion of the Oxford vote, for example, would have given the proslavery proponents seven seats in the council to six for the Free State Party, while the house of representatives would have had twenty-three proslavery men to sixteen free-state men. Without these illegal votes, the inverse was true: the Free State Party won nine council seats to four and, in the house, twenty-four to fifteen for the opposition. However, the free-state majorities in both houses were only acquired after Walker eliminated these fraudulent returns.<sup>37</sup>

32. Johannsen, "The Lecompton Constitutional Convention," 229.

33. Robert J. Walker to Lewis Cass, July 27, 1857, "Governor Walker's Administration," 376–77.

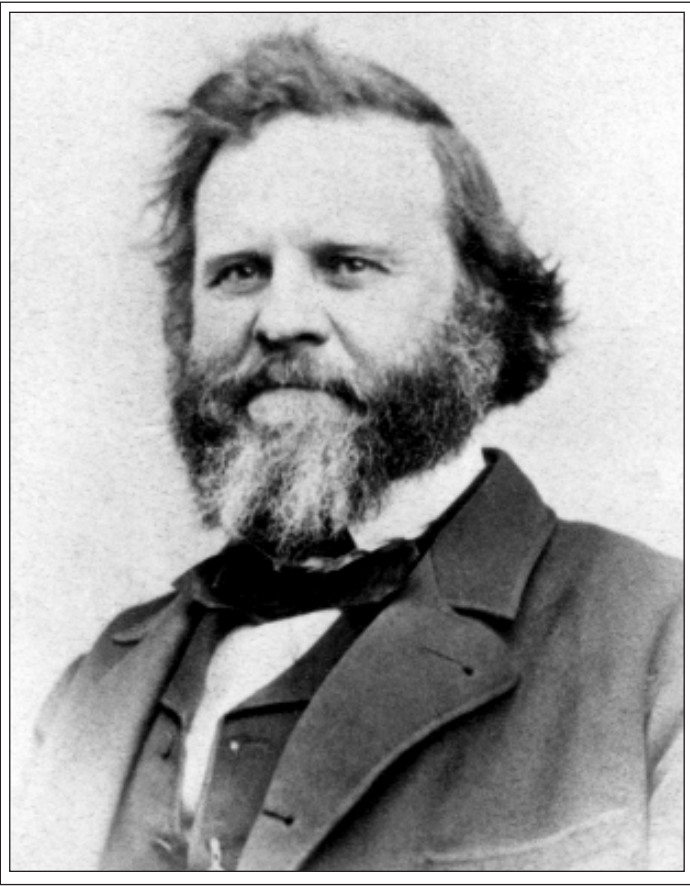
34. Lewis Cass to Robert J. Walker, September 2, 1857, *ibid.*, 383–84.

35. Nevins, *The Emergence of Lincoln*, 1: 172–73.

36. Robert J. Walker to Lewis Cass, November 3, 1857, "Governor Walker's Administration," 402.

37. Wilder, *Annals of Kansas*, 192, 195; Johannsen, "The Lecompton Constitutional Convention," 229.





*With Governor Walker on leave of absence, Frederick Stanton (above) became acting governor of Kansas Territory. However, when Stanton intervened by calling a special session of the newly elected free-state legislature, President Buchanan fired him.*

The proslavery party attempted to enjoin the governor to grant election certificates, but Walker and Stanton refuted Judge Sterling Cato's jurisdiction and ignored his writ. A judgment requiring them to issue certificates of election, the executive team argued, would be considered "an usurpation of power, and therefore a nullity, which, under their oath of office, it would be their duty to disregard."<sup>38</sup> With their protests and legal maneuvers unsuccessful, the proslavery faction had one last chance to ensure Kansas's admission to the Union with a slave constitution.

38. Sterling Cato to Robert J. Walker, et al., October 23, 1857, "Governor Walker's Administration," 408; Walker and Frederick Stanton to Cato, October 23, 1857, *ibid.*, 408–10; see also *Select Committee on Alleged Corruptions in Government*, 162.

Although now clearly at odds with the general population, the convention reconvened on October 19. The convention was legitimately authorized to draft a territorial constitution, and its legal standing was undiminished by the outcome of the recent elections. Nonetheless, the more farsighted among the delegates recognized the threat revealed by the electoral results: if a proslavery constitution was put to a general vote, it would fail. Moreover, even if Kansas entered the Union with a slave constitution, slave owners could not easily establish their labor system. As one antislavery proponent stated, "Even if our state is slave in form and name, it will be a slave state with the great majority actively hostile to slavery. . . . If a slave state at all, it will be a slave state without slaves."<sup>39</sup>

When compared with other frontier constitutions, the Lecompton Constitution was typical of the era. It revoked those early territorial statutes that had garnered so much criticism and, although it did not allow amendment until 1864, neither had the Topeka Constitution.<sup>40</sup> As for slavery, Article VII provided for the institution, but a December 21 referendum allowed voters to determine whether this constitution would be endorsed with slavery or endorsed without it. If a majority opted for slavery, then the constitution would be submitted to Congress as written. If a majority opted to exclude slavery, "then the article providing for slavery shall be stricken from the constitution . . . and no slavery shall exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with."<sup>41</sup> This too was typical as states that outlawed slavery generally allowed a period of adjustment for slaveholders already resident.

39. John Everett to Robert Everett Sr., April 2, 1857, in John M. Peterson, ed., "Letters of Edward and Sarah Fitch, Lawrence, Kansas, 1855–1863, Part II," *Kansas History: A Journal of the Central Plains* 12 (Summer 1989): 169.

40. Johannsen, "The Lecompton Constitutional Convention," 243. The Topeka Constitution forbade amendment for a full ten years. Johannsen asserts partisanship was the constitution's greatest problem, but the issues dividing the territory were so stark, any constitution written at this time was guaranteed to offend one faction or the other.

41. These provisions are quoted in James Buchanan, "First Annual Message, December 8, 1857," in Moore, *The Works of James Buchanan*, 10: 150. After the Free State Party won the election, several members who had participated in caucuses advocating full submission of the constitution changed their votes and supported a partial plan to submit only the question of slavery. This likely was a compromise for those who believed that full submission, which most preferred, would not win in the popular referendum. See *Select Committee on Alleged Corruptions in Government*, 162–63.

On the surface this clause seemed to give Kansans an option for a free state, but the clause offering slavery or no new slaves was perceived widely as a trick. Without an emancipation policy, residents could not outlaw slavery entirely; however, the institution in Kansas was not as entrenched as it was in the South. And while the South had long thrived without additional importation, constructing a slave empire with so few slaves would have been a challenge. By 1857 the approximately 450 slaves in the territory were but rarely engaged in plantation labor. Few slaveholders had relocated to the territory and, given the recent elections and the loud outcry over the constitution, it is difficult to envision many Southerners coming to Kansas.<sup>42</sup>

With Walker on a pre-approved leave of absence, Stanton would oversee the referendum. Cass emphasized the need for a fair vote and sent that portion of Buchanan's annual address relating to Kansas beforehand, instructing the acting governor "to have it as extensively published as possible throughout the territory, before the election of the 21st instant, so that no voter may misunderstand the President's views." However, Stanton became increasingly concerned that the referendum could not be held without "collision and bloodshed."<sup>43</sup> Although some might argue that the antislavery party's refusal to register for and vote in the delegate election was at the heart of the Lecompton problem, many were sympathetic to the view that the convention was illegitimate in spirit if not in form. Hoping to show Congress the depth of territorial disapproval before it began debating Kansas's admission, on December 1 Stanton called a special session of the legislature "to consider matters of great moment pertaining to the public welfare," fully aware that a separate, free-state referendum

would result. Given that the free-state legislature was not due to convene until January, Buchanan had hoped it would not interfere with the referendum. When Stanton intervened, Buchanan fired him.<sup>44</sup>

On December 8 the president issued his first annual message. Buchanan insisted that neither party nor ideology divided the two factions in Kansas; instead adherence to national laws was the significant division "between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress."<sup>45</sup> Buchanan acknowledged the uproar over the Lecompton Constitution but defended the convention's legality because the refusal of some Kansas residents "to avail themselves of their right [to vote] could in no manner affect the legality of the convention."<sup>46</sup> Moreover, while Buchanan had hoped Kansas would follow Minnesota's example, neither Congress in its organizing act nor the territorial legislature in authorizing the convention had required territorial approval of its constitution. Finally, Buchanan believed the option of accepting the Lecompton Constitution "with slavery" or "without slavery" adequately allowed the people of the territory to express their will. In emphasizing the basic right to amend any state constitution, Buchanan echoed his 1856 Wheatland speech:

If her constitution on the subject of slavery, or on any other subject, be displeasing to a majority of the people, no human power can prevent them from changing it, within a brief period. Under these circumstances it may well be questioned whether the peace

42. Gunja SenGupta, *For God and Mammon: Evangelicals and Entrepreneurs, Masters and Slaves in Territorial Kansas, 1854–1860* (Athens: University of Georgia Press, 1996), 123. SenGupta is less skeptical about the institution's potential in the territory. Although roughly 2 percent of Kansas's population were slaves in 1855 (186 slaves), SenGupta points out that the number of slaves doubled during 1856 and 1857 with the approximate four to five hundred slaves divided among roughly fifty slaveholders. SenGupta believes this shift indicated a growing plantation system. See SenGupta, *For God and Mammon*, ch. 6, for her analysis of the evolving institution in the territory.

43. Lewis Cass to Frederick Stanton, November 30, December 2, 1857, "Governor Walker's Administration," 412–14; Stanton to Cass, December 9, 1857, *ibid.*

44. "Acting Governor Stanton's Proclamation Convening the Legislature in Extra Session," December 1, 1857, *ibid.*, 318; Socolofsky, *Kansas Governors*, 56; Wilder, *Annals of Kansas*, 201; Klein, *Presidency of James Buchanan*, 302. In informing James Denver of his appointment, Cass revealed that Stanton had been fired for calling the special session and throwing "a new element of discord among the excited people of Kansas, and is directly at war, therefore, with the peaceful policy of the administration." See Lewis Cass to James W. Denver, December 11, 1857, "Governor Walker's Administration," 419–20.

45. Buchanan, *Mr. Buchanan's Administration on the Eve of the Rebellion*, 37.

46. James Buchanan, "First Annual Message," December 8, 1857, in Moore, *The Works of James Buchanan*, 10: 148–49. At this point, Buchanan still hoped that the Free State Party would agree to participate in the December 21 vote.

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and quiet of the whole country are not of greater importance than the mere temporary triumph of either of the political parties in Kansas.

Buchanan's annual message emphasized that the Lecompton Constitution presented the nation with an opportunity to decide the question of Kansas's fate; if Congress let the opportunity pass, Kansas might descend into "domestic discord" and civil war before another such opportunity arose.<sup>47</sup>

On the same day Buchanan's speech was released to the nation, the special session of the recently elected legislature convened. Now acting as the legal representative of the territory, it asked Congress to admit Kansas under the Topeka Constitution. Furthermore, although the previous legislature had set a referendum for December 21, this free-state legislature arranged another referendum for January 4, the same day state officers would be selected under the Lecompton Constitution. In the face of this activism, a proslavery convention nominated state officers and made the Lecompton Constitution a test of party devotion, emphasizing "the duty of every true Democrat" to support it.<sup>48</sup>

In the first referendum, boycotted by the Free State Party, the Lecompton Constitution with slavery was approved overwhelmingly by 6,226 voters with barely 569 voting to accept the constitution without slavery. As had become routine, fraud, especially in proslavery counties, was prevalent. Once again this resort to fraud where it was not needed demonstrates the increasing desperation of the proslavery faction that was convinced it had won the October elections only to see a free-state legislature, called into special session a month before the previous legislators' terms expired, undo its actions.<sup>49</sup>

In the second referendum, 10,226 free-state residents voted against the Lecompton Constitution as a whole (instead of against its provisions), while 138 accepted it with slavery and 23 accepted it without slavery. In addition, for state officers under the Lecompton Constitution, voters elected the free-state ticket very narrowly over the proslavery ticket. Buchanan interpreted this as free-state acceptance of the Lecompton process. In actuality, however, the free-state strategy was to elect "tried and true Free State men" to prepare for possible admission; if Congress refused the freestaters' pleas, these candidates were pledged to "favor an immediate call of a convention, to wipe out every vestige of that odious constitution, and to frame and adopt a new one."<sup>50</sup>

Yet, despite the triumph of the free-state ticket, the narrowness of that victory indicates the disinclination of residents to participate in elections relevant to actual governance as opposed to the form of government. Indeed, the willingness of both sides to argue principle when thwarted but to ignore it while in power demonstrates that at both extremes, the opposing factions were concerned with outcome, not process. While the election of a free-state slate for state government positions did not demonstrate overwhelming strength, nonetheless it did represent a shift of momentum in favor of a free state and a Republican one at that. At the beginning of the year the proslavery *Squatter Sovereign* recognized that a shift in strategy might be necessary: "Let us make Kansas a slave State and Democratic if possible," the journal opined in February 1857. "If not, then next best we can, which is to make it a National Democratic State should slavery be abolished."<sup>51</sup> However, eleven months later it seemed that even this lesser goal was out of reach.

Walker's opposition to the Lecompton Constitution had solidified during the fall, undoubtedly prompted by October's electoral fraud. Walker went to Washington to

47. *Ibid.*, 146–51. S. M. Johnson testified that Buchanan had insisted in the fall of 1857 that all he meant by so-called popular sovereignty pledges was submitting the slavery question to the people; because the Lecompton Constitution had done so in the referendum, submitting the entire constitution to a vote was unnecessary. See *Select Committee on Alleged Corruptions in Government*, 155.

48. Wilder, *Annals of Kansas*, 200–1.

49. *Freedom's Champion* (Atchison), February 27, 1858; Wilder, *Annals of Kansas*, 203.

50. Wilder, *Annals of Kansas*, 206–8; Buchanan, "Message on the Constitution of Kansas," February 2, 1858, in Moore, *The Works of James Buchanan*, 10: 188; Thomas Ewing, "The Struggle for Freedom in Kansas," *Cosmopolitan* 17 (May 1894): 80, 82–84.

51. *Squatter Sovereign* (Atchison), February 10, 1857, quotation in Bill Cecil-Fronsman, "'Death to All Yankees and Traitors in Kansas': The *Squatter Sovereign* and the Defense of Slavery in Kansas," *Kansas History: A Journal of the Central Plains* 16 (Spring 1993): 33.



personally impress upon Buchanan his implacable opposition to the Lecompton Constitution. Although a pro-Lecompton editorial in the November 18 *Washington Union* ought to have forewarned him, Walker was profoundly shocked when he found the cabinet, particularly Cobb, Attorney General Jeremiah Black, and Secretary of the Interior Jacob Thompson equally implacable in refuting his suggestions and, moreover, fully supportive of both the convention and its constitution. Unable to sway the cabinet, Walker soon broke with the administration.<sup>52</sup>

On December 15 Walker formally tendered his resignation to Cass. Unable "to preserve the peace or promote the public welfare" after Buchanan's message, Walker wrote Cass that the administration had placed him in an untenable position. He reiterated that his acceptance of the governorship had been predicated on submitting the constitution to the people, views that "were clearly understood by the President and all his cabinet." Given the wide dissemination of his pledges, Walker could not repudiate them "without personal dishonor and the abandonment of fundamental principles," and, because the people had not voted on the constitution, he could not support it.<sup>53</sup> Despite a confident start, Walker had lasted a mere six months in Kansas.

By the time of his resignation, Walker felt bitter, betrayed, and abandoned. Unlike his predecessors, Walker had not had any great disasters; he had shown, however, a tendency toward creative interpretation of his instructions. His resignation was forced by Buchanan's insistence that the Democratic Party support the Lecompton Constitution, regardless of whether this constitution commanded support within the territory. Buchanan held firm, however, because he did not share Walker's understanding of their

REPORT				
Of the President of the Council and Speaker of the House of Representatives of the Territory of Kansas, on the result of the vote of December 21st, for the Lecompton Constitution, and on the result of the election of January 4th under said Constitution; Also, PROCLAMATION of the Acting-Governor, the President of the Council, and the Speaker of the House of Representatives, on the result of the vote of January 4th, on the submission of the Lecompton Constitution to a vote of the people.				
LAWRENCE, KANSAS, January 14, 1857.		Council.		F. St. F. S.
To the Senate and House of Representatives:		1st District—Doniphan,		1
The undersigned received on the 12th inst., the following letter from the President of the late Constitutional Convention:		2d " Atchison,	1	
Lecompton, Jan. 12, 1857.		3d " Doniphan & Atchison,	1	
C. W. BARDOCK, Pres. of the Council of the Territorial Legislature, and		4th " Leavenworth,	3	
G. W. DUNLAP, Speaker of the House.		5th " Brown, Nemaha,		
GENTLEMEN: The election returns of the elections held on the 21st day of December, 1857, and the 4th day of January, 1858, under the Constitution known as the Lecompton Constitution, will be opened to-morrow at twelve o'clock M., at the office of the Surveyor-General, in this place, and you are respectfully requested to be present on the occasion, and witness the returns.		6th " Riley, Marshall, Dickinson and Washington,	1	
Very respectfully your obt. servt.,		7th " Jefferson and Cal-	1	
JOHN CALHOUN,		8th " Johnson,		2
Pres. of Convention.		9th " Lykins, Anderson and Franklin,	1	
In obedience to the polite invitation of Mr. Calhoun, we attended on the day and at the time specified and witnessed the opening of said returns, examined the poll books, noted the number of votes for and against the single proposition submitted by the schedule of the Constitution and find the following to		10th " Linn,*	1	
		11th " Bourbon & M'Gee,	1	
		12th " Douglas,	2	
		13th " Shawnee,	1	
		14th " Dorn, Allen, Wilson, &c.,	1	
		15th " Richardson, Davis, Wise, Breckenridge, &c.,	1	
			13	6
		* In Linn County, Mound City precinct not returned.		
		Thus it will be seen that we have triumphed against a most miserable and wicked usurpation and an election		

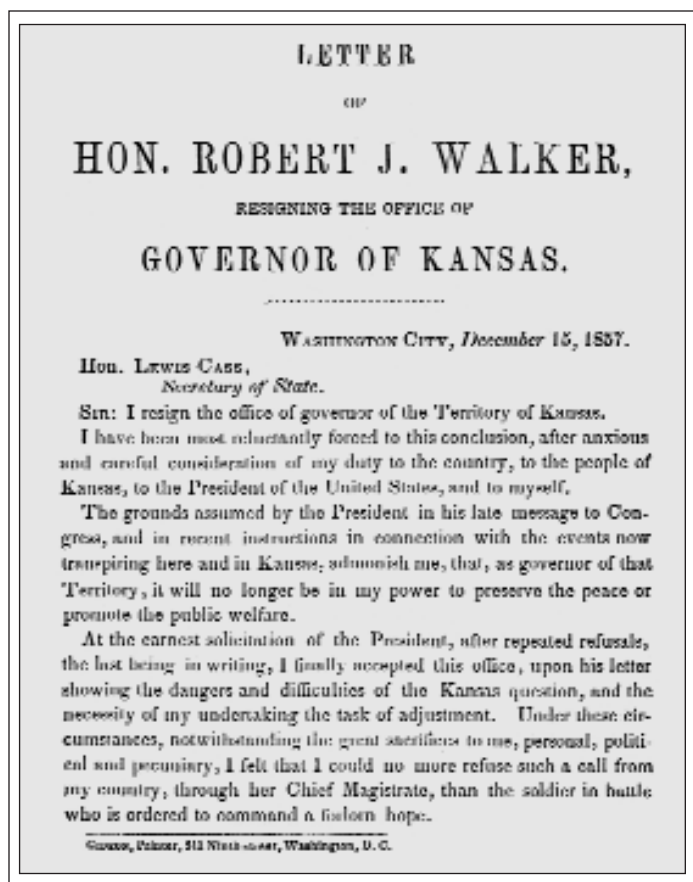
In the first referendum, boycotted by the Free State Party, the Lecompton Constitution with slavery was approved overwhelmingly. In the second referendum, 10,226 free-state residents voted against the Lecompton Constitution, while 138 accepted it with slavery and 23 accepted it without slavery.

agreement. In responding to Walker's letter of resignation, Cass disputed Walker's allegations, stating that the convention merely exercised its right to decide what, if any, part of the constitution it would submit to the people. Buchanan believed that the convention had submitted "the all-important and dangerous question of slavery" to the people. Moreover, Cass postulated that Walker charged Buchanan with changing his Kansas policy merely because "he had not treated the submission of this momentous question as a mere nullity." According to Cass, Buchanan had "never entertained or expressed the opinion that the convention were bound to submit any portion of the constitution to the people, except the question of slavery, much less that the other portions of the constitution would be invalid without such a submission." Finally, Cass reminded Walker that "with the question, whether Kansas

52. Socolofsky, *Kansas Governors*, 62; Shenton, *Robert John Walker*, 174.

53. Robert J. Walker to Lewis Cass, December 15, 1857, "Governor Walker's Administration," 421-22.





On December 15, 1857, Robert Walker formally resigned as governor of Kansas Territory. Despite a confident start, Walker had lasted a mere six months in Kansas.

was to be a free or slave state, you were not to interfere. You were to secure to the people of Kansas a free and fair election, to decide this question for themselves.”<sup>54</sup>

Walker deserves approbation for convincing the free-state men to participate in the October territorial election, an imperative aspect to normalize local government. However, he also was excessively independent. Even accepting that Buchanan pledged Walker his unconditional support, it is unlikely that the president expected Walker to aggrandize it as he did. Moreover, the explicitness with which Walker issued pledges and tied Buchanan to them was

bound to make the president uncomfortable regardless of how much he might have agreed with Walker. Even the *Boston Journal* criticized Walker’s “restless officiousness,” complaining that “he has no idea of the negative virtues of a judicious abstinence from acts and words. He overdoes his part, and gets himself into trouble by talking, writing, and acting where there is not the slightest need for it.”<sup>55</sup> Walker’s speech at Topeka the week after his inaugural exemplifies this tendency as he had assured the audience that “the chief magistrate of the union, will join you in opposition.” In his many speeches throughout the territory, Walker was remarkably free with Buchanan’s name and frequently made promises on his behalf. Given Walker’s prominence, reining him in to better reflect administration policy was a delicate operation, and Buchanan’s ultimate repudiation represented a considerable humiliation that alone could account for Walker’s subsequent hostility.

It is also possible that Walker continued to think of himself as Buchanan’s equal based on their service in Polk’s cabinet and had difficulty understanding, as Cass pointed out, that in accepting the Kansas post he had acquired the obligation to follow Buchanan’s directives. However, after a few weeks in the territory, both Walker and Stanton began to see themselves as apart from the national administration. Stanton later would assert that the executive team had a greater duty than that which they owed Buchanan, for the Kansas–Nebraska Act “gave certain powers and imposed certain responsibilities on the Governor, which were independent of the President and rested solely on the conscience of the Governor so long as he held that position.” Stanton seemed surprised to discover that “the Governor and Secretary were in a certain sense only the agents of the Washington government, inasmuch, as you well know, they were wholly at the mercy of the President, to be dismissed at any moment at his own

55. Quotation in Shenton, *Robert John Walker*, 169–70. Thompson, for instance, complained that “I get lost in following the path with the Administration and its true position on one side and Gov. Walker and his many givings on the other. Walker evidently has one purpose and the Administration another; and it requires a tactician to do justice to the President and not wound the sensibilities of Walker.” See Jacob Thompson to Jeremiah Black, July 4, 1857, in Shenton, *Robert John Walker*, 164–65.


54. Lewis Cass to Robert J. Walker, December 18, 1857, *ibid.*, 431.

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whim and caprice, or at the suggestion of such heated partisans as might at any moment reach his ear and command his confidence."<sup>56</sup> Walker and Stanton's conduct led the *New York Tribune's* Kansas correspondent to describe the executive branch in the territory as assuming a new function: "Instead of confining themselves to enforcing the bogus laws, they become political missionaries."<sup>57</sup>

Both Buchanan and Walker made promises, but, as the months passed, each began to emphasize separate aspects of their statements. In his inaugural, Walker had spoken of the convention as an inviolable entity and warned that "the absentees are as much bound under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election."<sup>58</sup> The delegate election had been conducted without significant fraud, and while some districts were registered inadequately in the spring, the free-state men had opted out the process beforehand as a matter of principle. The pertinent fraud under Walker's watch did not affect the convention, only the October elections. Over time, however, Walker began to conflate the two and to perceive the Lecompton Convention itself as fraudulent. Thus, Walker began to focus on the "no fraud or violence" aspect of his inaugural in deciding to repudiate the Lecompton Constitution.

On the other hand, Buchanan had written Walker that he was "willing to stand or fall" on the question of submission. However, this letter to Walker contained a restriction. In the same paragraph, Buchanan had stated that

"should the convention of Kansas adopt this principle, all will be settled harmoniously."<sup>59</sup> As the months passed, Buchanan began to favor this qualifier in interpreting his instructions to Walker. He maintained that the question of submission belonged solely to the legitimately constituted convention and that to obstruct the convention's judgment would be to violate the will of the people of Kansas. Yet even as it became clear that Walker and Buchanan understood their obligations differently, Buchanan was in a delicate position. The president had had to make an extraordinary effort to persuade such a national man to go to Kansas when he expected a cabinet post. Thus, reining in Walker as he embraced his position with admirable enthusiasm was awkward. Was Buchanan sincere when he pledged Walker his support? Yes, but Buchanan and Walker most likely agreed on the vital issues when the president tendered the offer, and Walker allowed himself to be persuaded in the spring. Both were Union men whose formative political experiences had been forged in the same national cauldron. But Walker's experiences in the territory altered his understanding of what threatened the Union, and he came to see the illegal graspings of the proslavery faction as the greater hazard. In Washington, Buchanan remained convinced that the greatest threat to the Union would be allowing abolitionists to thwart the will of the people as expressed in their convention. Despite overwhelming evidence to the contrary, Democrats such as Buchanan persistently regarded the free-state men as an abolitionist fringe group. 

56. Frederick P. Stanton, "Address of Ex-Governor Frederick P. Stanton," *Publications of the Kansas State Historical Society* (Topeka: Kansas Publishing House, 1886), 1: 150–51.

57. *New York Tribune*, June 22, 1857.

58. "Governor Walker's Inaugural Address," 328.

59. Worner, "Letters of James Buchanan," 313–14.